

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut **REGULATION** of

NAME OF AGENCY

Department of Social Services

Concerning

SUBJECT MATTER OF REGULATION

National Family Caregiver Support Program-Title III-E of the Older Americans Act

Section 1. Section 17b-423-8 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 17b-423-8. [Community Services Policy Manual] National Family Caregiver Support Program – Title III-E [Caregiver Support] of the Older Americans Act.

(a) Purpose

The Department of Social Services shall operate a family caregiver support program pursuant to Title III-E of the Older American Act, 42 USC 3030s, as amended from time to time. The program shall be known as the “National Family Caregiver Support Program.” The department shall award funds received under Title III-E of the Older Americans Act to [An area agency on aging] an Area Agency on Aging [shall award funds received under Title III-E of the Older Americans Act] to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers. These services include information and assistance to caregivers, respite care to enable caregivers to be temporarily relieved of caregiver responsibilities[,] and supplemental services to complement the care provided by caregivers. In addition, these funds may be used to provide individual caregiver counseling and training, as well as for the organization and operation of support groups.

(b) Definitions

As used in this section:

- (1) “Care recipient” means [the person] a child or an older individual who is receiving direct care services from a caregiver or a service provider;
- (2) “Caregiver” means a “family caregiver” or a “grandparent or older individual who is a relative caregiver” as defined in subdivisions (b)(4) and (5) of this section. The “caregiver” is the recipient of the support services funded by the National Family Caregiver Support Act;
- (3) “Child” means an individual who is not more than 18 years of age or who is an individual with a disability;
- (4) “Family caregiver” means an adult family member, or another individual, who is an informal provider of in-home and community care to an older [person] individual;

- (5) “Grandparent or older individual who is a relative caregiver” means a grandparent or [stepgrandparent] step-grandparent of a child, or a relative of a child by blood, marriage or adoption who is 55 years of age or older and (A) lives with the child; [and] (B) is the primary caregiver of the child[; and], because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and (C) has a legal relationship to the child, such as legal custody or guardianship or is raising the child informally;
- (6) “Program” means a caregiver support program funded by Title III-E, the National Family Caregiver Support Act, 42 USC §3030s;
- (7) “Personal care assistant services” means physical assistance provided to the care recipient, under the self-directed care option, that assist the care recipient to carry out activities of daily living and instrumental activities of daily living;
- (8) “Self-directed care” means an optional approach to providing services under the National Family Caregiver Support program under which the respite services, provided by a personal care assistant, are planned, budgeted and purchased under the direction and control of the caregiver, the care recipient or the care recipient’s representative; and
- (9) “Title III-E” means the National Family Caregiver Support Program established pursuant to the National Family Caregiver Support Act, 42 USC 3030s.

(c) Coordination

[In carrying out the provisions of Title III-E, an] An Area Agency on [aging] Aging shall coordinate its activities with the activities of other community agencies and [voluntary] volunteer organizations [providing] that provide the types of services required by the program to carry out the provisions of Title III-E.

(d) Maintenance of Effort

[Title III-E] Title III-E funds shall be used in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under federal, state or local law by a state or unit of general purpose local government for program service.

(e) Funding Parameters

- (1) The federal share of the cost of carrying out a program pursuant to this section shall not exceed [seventy five per cent] seventy-five percent of the total cost of the program. The [nonfederal] non-federal share of the cost shall be provided from state and local sources.
- (2) An [area agency on aging] Area Agency on Aging shall not use more than ten [per cent] percent of the total of federal and [nonfederal] non-federal shares awarded to them to provide program services to grandparents and older individuals who are relative caregivers.
- (3) An [area agency on aging] Area Agency on Aging shall not use more than twenty [per cent] percent of the total federal [an nonfederal] and non-federal share awarded to them to provide supplemental services to caregivers.
- (4) An [area agency on aging] Area Agency on Aging shall not provide a direct subsidy to any caregiver through the program.

(f) Eligibility

[An area agency on aging shall award Title III-E funds to provide caregiver support services to caregivers as follows:

- (1) The care recipient shall be a Connecticut resident who is residing in the community.
- (2) Only one caregiver per care recipient can receive respite services in any fiscal year. Only one caregiver per care recipient can receive supplemental services in any fiscal year.
- (3) A family caregiver may receive respite and supplemental services only if the care recipient is:
 - (A) unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
 - (B) due to a cognitive or other mental impairment, requires substantial supervision because the person behaves in a manner that poses a serious health or safety hazard to the person or another person.
- (4) A caregiver shall not receive respite service benefits for any care recipient in excess of three thousand five hundred (\$3,500) in any fiscal year. A caregiver shall not receive supplemental service benefits for any care recipient in excess of seven hundred fifty dollars (\$750) in any fiscal year.]

For a caregiver to be eligible for caregiver support services under Title III-E, the following requirements shall be met:

- (1) The caregiver shall be a “family caregiver” or a “grandparent or an older individual who is a relative caregiver” as defined in subsections (b)(4) and (5) of this section;
- (2) the care recipient shall be a Connecticut resident who is residing in the community; and

(3) the care recipient shall be:

(A) A “child” as defined in subsection (b)(3) of this section; or

(B) an older individual who:

(i) Is unable to perform at least two activities of daily living without substantial human assistance, or three such activities if the care recipient is severely disabled; including verbal reminding, physical cueing, or supervision; or

(ii) due to a cognitive or other mental impairment, requires substantial supervision because the older individual behaves in a manner that poses a serious health or safety hazard to themselves or another individual.

(g) Limitations on Services

(1) Only one caregiver per care recipient may receive respite services in any fiscal year.

(2) Only one caregiver per care recipient may receive supplemental services in any fiscal year.

(3) A caregiver shall not receive respite service benefits for any care recipient in excess of \$3,500 in any fiscal year. A caregiver shall not receive supplemental service benefits for any care recipient in excess of \$7,500 in any fiscal year.

[(g)] (h) Priority

Service levels are subject to the limits of funding allocations to an [area agency on aging] Area Agency on Aging. If an Area Agency on Aging determines that all requests for services cannot be accommodated within the [funding limits] funds allocated, then priority shall be given to [funding services to benefit]:

(1) Caregivers who are older [persons] individuals with the greatest social [and economic] need, and older individuals with the greatest economic need, with particular attention to low-income older [persons, who are either providing or receiving care] individuals; [and]

(2) grandparents or older [persons] individuals providing care [and support] to [persons] care recipients with severe disabilities, including children with severe disabilities as defined in [42 USC 15002 (8)(A).] 42 USC §3002(48); or

(3) caregivers who provide care for care recipients with Alzheimer’s disease and related disorders with neurological and organic brain dysfunction.

[(h)] (i) Selection of Service Providers

(1) General Rule

An [area agency on aging] Area Agency on Aging shall make awards for information and assistance to caregivers, individual caregiver counseling and training, organization and operation of support groups, respite care to enable caregivers to be temporarily relieved of caregiver responsibilities[,] and supplemental services to complement the care provided by caregivers to a provider or providers that furnish any or all types of services. [Such a provider] All service providers, except personal care assistants hired by the caregiver, the care recipient or the care recipient's representative under the self-directed care option, shall meet the requirements of [this section] subdivision (3) of this subsection.

(2) Process for Selecting Service Providers

- (A) An [area agency on aging] Area Agency on Aging shall award funds either through a competitive grant process or contract process, as appropriate[.]; or
- (B) the caregiver, care recipient or the representative of a care recipient may opt to receive respite services through the self-directed care option, as defined in subsection (b) of this section. Under self-directed care, respite service providers are selected by the caregiver, the care recipient or the care recipient's representative.

(3) Service Provider qualifications

- (A) A provider of services shall be accountable to [each] the contracting [area agency on aging] Area Agency on Aging, the caregiver [and], the care recipient or the care recipient's representative, as appropriate.
- (B) A provider of respite services and supplemental services, as applicable, shall meet the requirements of provider participation of the specified services as established for the Connecticut Homecare Program for Elders, pursuant to section 17b-342-2 of the Regulations of Connecticut State Agencies, to the extent that such requirements do not conflict with this section.
- (C) [A provider of respite services shall not be related, by blood or marriage, to the caregiver or the care recipient.] A provider of respite services funded by the National Family Caregiver Support program shall not be the spouse of the care recipient nor the conservator of the care recipient. The relative of the conservator of the care recipient may only be a provider of respite care services with prior approval from the department.
- (D) A provider of respite care services shall agree to the rates of reimbursement established by the [Department] department for the Connecticut Home Care Program for Elders for the same or similar services. If the caregiver, the care recipient or the care recipient's representative chooses the self-directed care option, the rate paid to the personal care assistant shall be negotiated between the caregiver, the care recipient or the care recipient's representative and the personal care assistant.

[(i)] (i) Voluntary Contributions

- (1) A caregiver or a care recipient may, but shall not be required to contribute to the cost of any service.
- (2) [Voluntary Contributions for respite and supplemental services] An Area Agency on Aging:
 - (A) [An area agency on aging] shall establish a non-coercive solicitation process to facilitate voluntary contributions for program services[.];
 - (B) [An area agency on aging] may request that a caregiver or a care recipient share in the cost of respite or supplemental services by voluntarily contributing [twenty percent of] to the cost of those services[.] ;
 - (C) [An area agency on aging] shall not request that a caregiver or a care recipient share in the cost of services if the income of the care recipient is at or below the federal poverty level[.] ; and
 - (D) [An area agency on aging] shall use funds received from voluntary contributions to apply to respite and supplemental program costs for services as appropriate.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

Statement of Purpose: (A) The purpose of the proposed regulation is to increase the flexibility of the National Family Caregiver Support Program by permitting a self-directed care option under which caregivers may hire personal care assistants to provide respite services.

(B) The main provisions of the regulation: (1) Amend the provider qualifications to clarify that the spouse or the conservator of the care recipient shall not qualify to be respite care provider; (2) provide that a relative of the conservator of the care recipient may only qualify to be a respite care provider if first approved by the Department; (3) add the self-directed care option, under which personal care assistants may be hired by the caregiver to provide respite care services; and (4) makes several technical changes to bring the state regulations into compliance with the 2006 Reauthorization of the Older Americans Act.

The problems, issues or circumstances that the regulation proposes to address: Under the current program certain family members are not permitted to be paid to provide necessary respite services. The proposed amendment creates more flexibility regarding who may provide respite services by offering a self-directed care option and allowing personal care assistants to be service providers.

(C) The legal effects of the regulation, including all of the ways that the regulation would change existing regulations or other laws: The proposed amendment updates the regulations to be in compliance with changes made by the 2006 Reauthorization of the Older Americans Act that expands eligibility for care recipients

CERTIFICATION*This certification statement must be completed in full, including items 3 and 4, if they are applicable.*

- 1) I hereby certify that the above (check one) ☒ Regulations ☐ Emergency Regulations
- 2) are (check all that apply) ☐ adopted ☒ amended ☐ repealed by this agency pursuant to the following authority(ies): (complete all that apply)
- a. Connecticut General Statutes section(s) 17b-423.
- b. Public Act Number(s) _____.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on 10/18/11;
(Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) And that a public hearing regarding the proposed regulations was held on _____.
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)
- ☒ When filed with the Secretary of the State
- OR ☐ on (insert date) _____

DATE	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
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Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

- ☐ Approved ☐ Rejected without prejudice
- ☐ Approved with technical corrections ☐ Disapproved in part, (Indicate Section Numbers disapproved only)
- ☐ Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2.
 - a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
 - b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.